

85th Legislative Session – 2010

Committee: Senate State Affairs

Monday, March 08, 2010

P - Present
E - Excused
A - Absent

Roll Call

P Abdallah
P Hanson (Gary)
P Heidepriem
P Knudson
P Olson (Russell)
P Rhoden
P Turbak Berry
P Gray, Vice-Chair
P Dempster, Chair

OTHERS PRESENT: See Original Minutes

The meeting was called to order by Senator Thomas Dempster, Chair.

MOTION: TO APPROVE THE MINUTES OF WEDNESDAY, MARCH 3, 2010

Moved by: Gray
Second by: Olson (Russell)
Action: Prevailed by voice vote.

HB 1138: create certified technology parks and to provide certain financing mechanisms and bonding authority to enhance knowledge and tech-based economic development.

Presented by: Representative Deb Peters

MOTION: AMEND HB 1138

1138oa

On the House engrossed bill, delete everything after the enacting clause and insert:

"Section 1. For the purposes of this Act, the term, department, means the Department of Tourism and State Development.

Section 2. The governing body of a political subdivision may apply to the department for designation of all or part of the area within the political subdivision as a certified technology park or certified site and to enter into an agreement governing the terms and conditions of the designation. The application shall be in a form specified by the department and shall include information the department determines necessary to make the determinations required pursuant to this Act.

Section 3. The governing body of the political subdivision that established the certified technology park may enter an agreement with the department establishing the terms and conditions governing a certified technology park designated pursuant to this Act. Upon designation of the certified technology park under the terms of the agreement, the subsequent failure of any party to comply with the terms of the agreement may result in the termination or rescission of the designation of the area as a certified technology park. The agreement shall include all of the following:

- (1) A description of the area to be included within the certified technology park;
- (2) Any covenants and restrictions upon all or part of the properties contained within the certified technology park and terms of enforcement of any covenants or restrictions;
- (3) The financial commitments of any party to the agreement and of any owner or developer of property within the certified technology park;
- (4) The terms of any commitment required from a postsecondary educational institution or private research based institute for support of the operations and activities within the certified technology park;
- (5) The terms of enforcement of the agreement, which may include the definition of events of default, cure periods, legal and equitable remedies and rights, and penalties and damages, actual or liquidated, upon the occurrence of an event of default; and
- (6) The public or private facilities to be developed for the certified technology park and the costs of those public or private facilities, as approved by the department.

The governing body of the political subdivision and the department shall maintain the confidentiality of any information that is submitted as part of this review process and marked as confidential.

Section 4. The department shall promulgate rules pursuant to chapter 1-26 to:

- (1) Prescribe the application procedures and the form and content of the application and business plan for a certified technology park or certified site;
- (2) Set the minimum criteria for an area to be designated as a certified technology park or certified site;
- (3) Establish certain level of financial and technical support for the certified technology park and the required evidence of public and private partnerships;
- (4) Establish terms and conditions on how the certified technology park may be operated including the ownership of facilities and buildings;
- (5) Determine the commitment of postsecondary, private, or federal research and development for the park;
- (6) Determine the commitment of the local governments and economic development organization to the park; and
- (7) Require certain documents and reports regarding the operation and activities of the park to be filed with the department."

Moved by: Knudson
Second by: Gray
Action: Prevailed by voice vote.

MOTION: DO PASS HB 1138 AS AMENDED

Moved by: Knudson
Second by: Olson (Russell)
Action: Prevailed by roll call vote. (9-0-0-0)

Voting Yes: Abdallah, Hanson (Gary), Heidepriem, Knudson, Olson (Russell), Rhoden, Turbak
Berry, Gray, Dempster

MOTION: AMEND TITLE OF HB 1138

1138ota

On page 1, line 1, of the House engrossed bill, delete everything after "parks" and insert "or

certified sites".

On page 1, line 2, delete everything before "to".

Moved by: Knudson
Second by: Olson (Russell)
Action: Prevailed by voice vote.

MOTION: PLACE HB 1138 ON CONSENT CALENDAR

Moved by: Knudson
Second by: Hanson (Gary)
Action: Prevailed by voice vote.

HB 1060: revise certain provisions regarding the refunds for new or expanded agricultural facilities and the refunds for new or expanded business facilities.

Presented by: Senator Dave Knudson

MOTION: AMEND HB 1060

1060fb

On the House engrossed bill, delete everything after the enacting clause and insert:

"

Section 1. That § 10-45B-2 be amended to read as follows:

10-45B-2. ~~Any person~~ As provided in this chapter, any person holding a permit issued pursuant to § 10-45B-6 may apply for and obtain a refund or credit for contractors' excise taxes imposed and paid under the provisions of chapter 10-46A for the construction of a new agricultural processing facility and for sales or use taxes imposed and paid by such person under the provisions of chapters 10-45 and 10-46 for the purchase or use of agricultural processing equipment.

Section 2. That § 10-45B-4 be repealed.

~~10-45B-4. The refund of taxes for a new agricultural processing facility pertains only to project costs incurred and paid after April 1, 1997, and within thirty-six months of the construction date as stated on the application required by § 10-45B-6. No refund may be made unless:~~

~~(1) The project cost exceeds the sum of four million five hundred thousand dollars; and~~

- ~~— (2) — The person applying for the refund obtains a permit from the secretary as set forth in § 10-45B-6.~~

Section 3. That § 10-45B-4.1 be repealed.

~~— 10-45B-4.1. The refund of taxes pursuant to § 10-45B-2.1 pertains only to project costs incurred and paid after February 1, 2005, up to and including thirty-six months from the construction date if the project costs are sixty million dollars or less and after February 1, 2005, up to and including seventy-two months from the construction date if the project costs are more than sixty million dollars. There is no refund if the person applying for the refund does not obtain a permit from the secretary as set forth in § 10-45B-6.~~

~~— Upon a showing of good cause, the time limits prescribed by this section may be extended by the secretary for a period not to exceed twenty-four months.~~

Section 4. That chapter 10-45B be amended by adding thereto a NEW SECTION to read as follows:

The refund of taxes pursuant to §§ 10-45B-2 and 10-45B-2.1 pertains only to project costs incurred and paid after January 1, 2008, up to and including thirty-six months from the construction date. No refund may be paid unless the person applying for the refund obtains a permit from the secretary as set forth in § 10-45B-6.

Section 5. That § 10-45B-5 be repealed.

~~— 10-45B-5. If the project cost for a new agricultural processing facility exceeds four million five hundred thousand dollars, the refund shall be one hundred percent of the taxes attributed to the project cost.~~

Section 6. That § 10-45B-5.1 be repealed.

~~— 10-45B-5.1. The amount of the tax refund for a new business facility shall be a percentage of the taxes paid, as follows:~~

- ~~— (1) — For project costs of less than ten million dollars, there shall be no refund;~~
- ~~— (2) — For project costs of ten or more million dollars but less than fifteen million dollars there shall be a refund of twenty-five percent of the taxes paid;~~
- ~~— (3) — For project costs of fifteen or more million dollars but less than twenty million dollars there shall be a refund of thirty-three percent of the taxes paid;~~
- ~~— (4) — For project costs of twenty or more million dollars but less than forty million dollars there shall be a refund of fifty percent of the taxes paid;~~
- ~~— (5) — For project costs of forty or more million dollars but less than sixty million dollars there shall be a refund of sixty-seven percent of the taxes paid;~~
- ~~— (6) — For project costs of sixty million dollars or more but less than six hundred million dollars~~

~~there shall be a refund of seventy-five percent of the taxes paid; and~~
~~— (7) — For project costs of six hundred million dollars and greater there shall be a refund of~~
~~ninety percent of the taxes paid.~~

Section 7. That § 10-45B-6.1 be repealed.

~~— 10-45B-6.1. Any person issued a permit pursuant to this chapter prior to March 31, 1997, may~~
~~continue to submit claims for the project.~~

Section 8. That chapter 10-45B be amended by adding thereto a NEW SECTION to read as follows:

Notwithstanding any provision of chapter 10-45B or this Act, this section controls the amount of refunds payable under chapter 10-45B for any new agricultural processing facility or new business facility that has a construction date on or after January 1, 2010. For project cost incurred and paid from January 1, 2010, to December 31, 2012, inclusive, the amount of the refund shall be determined by applying the provisions of chapter 10-45B in effect on July 1, 2010. The amount of the tax refund for a new agricultural processing facility or new business facility shall be a percentage of the taxes paid, as follows:

- (1) For project costs of less than ten million dollars, there shall be no refund;
- (2) For project costs of ten or more million dollars but less than four hundred million dollars, there shall be a refund of fifty percent of the taxes paid; and
- (3) For projects costs of four hundred million or more dollars, there shall be no refund.

No tax refund may be given for any project cost incurred and paid on or after January 1, 2013.

Section 9. That chapter 10-45B be amended by adding thereto a NEW SECTION to read as follows:

The provisions of chapter 10-45B in effect prior to January 1, 2010, apply to any project where the construction date was before January 1, 2010.

Section 10. That § 10-45B-8 be amended to read as follows:

10-45B-8. Any person issued a permit pursuant to this chapter shall submit a claim for refund to the department no more frequently than on or before the last day of each month and no less frequently than on or before the last day of each month following each calendar quarter. The secretary shall determine and pay the amount of the tax refund within ninety days of receipt of the

claim for refund. Ninety-five percent of the amount of refund shall be paid to the claimant in accordance with §§ 10-59-22 and 10-59-23, and five percent shall be withheld by the department. No interest may be paid on the refund amount. ~~If electronic funds transfer is available to the secretary, the secretary shall pay the refund by electronic funds transfer if requested by the claimant. The secretary shall pay the refund by electronic funds transfer.~~

Section 11. That § 10-45B-8.1 be repealed.

~~—10-45B-8.1. No claim for refund pursuant to this chapter may be considered by the department if the claim for refund is received after the following applicable time period:~~

- ~~—(1) Twelve months after the thirty-six month time period of § 10-45B-4;~~
- ~~—(2) Twelve months after the thirty-six month time period of § 10-45B-4.1 for projects with project costs of sixty million dollars or less;~~
- ~~—(3) Twelve months after the seventy-two month time period of § 10-45B-4.1 for projects with project costs of more than sixty million dollars; or~~
- ~~—(4) Twelve months after the extended time period of § 10-45B-4.1 for projects that have obtained a time limit extension from the secretary.~~

~~Moreover, any such claim is barred from any future refund eligibility.~~

Section 12. That chapter 10-45B be amended by adding thereto a NEW SECTION to read as follows:

No claim for refund pursuant to this chapter may be considered by the department if the claim for refund is received twelve months after the thirty-six month time period of section 4 of this Act. Moreover, any such claim is barred from any future refund eligibility.

Section 13. That § 10-45B-8.2 be repealed.

~~—10-45B-8.2. No document or record in support of any claim for refund may be considered by the department if the documents or records in support of any claim for refund are received after the following applicable time period:~~

- ~~—(1) Twelve months after the thirty-six month time period of § 10-45B-4;~~
- ~~—(2) Twelve months after the thirty-six month time period of § 10-45B-4.1 for projects with project costs of sixty million dollars or less;~~
- ~~—(3) Twelve months after the seventy-two month time period of § 10-45B-4.1 for projects with project costs of more than sixty million dollars; or~~
- ~~—(4) Twelve months after the extended time period of § 10-45B-4.1 for projects that have obtained a time limit extension from the secretary.~~

~~Moreover, any such document or record is barred from any future consideration.~~

~~—However, if the department requests any additional document or record from the project owner after a review of the claim for refund, and the request is made after the applicable time period provided by this section has expired, the project owner has sixty days to provide the requested~~

document or record. No document or record received after this sixty-day period may be considered by the department. Moreover, any such document or record is barred from any future consideration.

Section 14. That chapter 10-45B be amended by adding thereto a NEW SECTION to read as follows:

No document or record in support of any claim for refund may be considered by the department if the document or record in support of any claim for refund is received twelve months after the thirty-six month time period of section 4 of this Act. Moreover, any such document or record is barred from any future consideration.

However, if the department requests any additional document or record from the project owner after a review of the claim for refund, and the request is made after the applicable time period provided by this section has expired, the project owner has sixty days to provide the requested document or record. No document or record received after this sixty-day period may be considered by the department. Moreover, any such document or record is barred from any future consideration.

Section 15. That § 10-45B-8.3 be repealed.

~~10-45B-8.3. The provisions of §§ 10-45B-8.1 and 10-45B-8.2 apply to refunds for projects only if the permit was applied for after June 30, 2009.~~

Section 16. That § 10-45B-9 be amended to read as follows:

10-45B-9. The amounts withheld by the department in accordance with § 10-45B-8 shall be retained until the project has been completed and the claimant has met all the conditions of ~~§ 10-45B-4 or 10-45B-4.1~~ section 4 of this Act, at which time all sums retained shall be paid to claimant.

Section 17. That chapter 10-46C be repealed.

Section 18. That chapter 10-45B be amended by adding thereto a NEW SECTION to read as follows:

The department shall transfer to the revolving economic development and initiative fund established by § 1-16G-3 an amount equal to ten percent per fiscal year of the sales, use, and contractors' excise taxes paid on projects receiving a refund under section 8 of this Act. The total amount transferred pursuant to this section per fiscal year may not exceed ten million dollars."

Moved by: Knudson
Second by: Gray
Action: Was not acted on.

MOTION: AMEND THE PENDING AMENDMENT

1060oc

On the pending amendment (1060fb), delete Section 18.

Moved by: Heidepriem
Second by: Hanson (Gary)
Action: Failed by roll call vote. (4-5-0-0)

Voting Yes: Abdallah, Hanson (Gary), Heidepriem, Turbak Berry

Voting No: Knudson, Olson (Russell), Rhoden, Gray, Dempster

MOTION: AMEND HB 1060

1060fb

On the House engrossed bill, delete everything after the enacting clause and insert:

"

Section 1. That § 10-45B-2 be amended to read as follows:

10-45B-2. ~~Any person~~ As provided in this chapter, any person holding a permit issued pursuant to § 10-45B-6 may apply for and obtain a refund or credit for contractors' excise taxes imposed and paid under the provisions of chapter 10-46A for the construction of a new agricultural processing facility and for sales or use taxes imposed and paid by such person under the provisions of chapters 10-45 and 10-46 for the purchase or use of agricultural processing equipment.

Section 2. That § 10-45B-4 be repealed.

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- ~~—(1) The project cost exceeds the sum of four million five hundred thousand dollars; and~~
~~—(2) The person applying for the refund obtains a permit from the secretary as set forth in § 10-45B-6.~~

Section 3. That § 10-45B-4.1 be repealed.

~~—10-45B-4.1. The refund of taxes pursuant to § 10-45B-2.1 pertains only to project costs incurred and paid after February 1, 2005, up to and including thirty-six months from the construction date if~~

~~the project costs are sixty million dollars or less and after February 1, 2005, up to and including seventy-two months from the construction date if the project costs are more than sixty million dollars. There is no refund if the person applying for the refund does not obtain a permit from the secretary as set forth in § 10-45B-6.~~

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- ~~—(6) For project costs of sixty million dollars or more but less than six hundred million dollars there shall be a refund of seventy-five percent of the taxes paid; and~~
- ~~—(7) For project costs of six hundred million dollars and greater there shall be a refund of ninety percent of the taxes paid.~~

Section 7. That § 10-45B-6.1 be repealed.

~~—10-45B-6.1. Any person issued a permit pursuant to this chapter prior to March 31, 1997, may~~

~~continue to submit claims for the project.~~

Section 8. That chapter 10-45B be amended by adding thereto a NEW SECTION to read as follows:

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~~Moreover, any such document or record is barred from any future consideration.~~

~~However, if the department requests any additional document or record from the project owner after a review of the claim for refund, and the request is made after the applicable time period provided by this section has expired, the project owner has sixty days to provide the requested document or record. No document or record received after this sixty-day period may be considered by the department. Moreover, any such document or record is barred from any future consideration.~~

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10-45B-9. The amounts withheld by the department in accordance with § 10-45B-8 shall be retained until the project has been completed and the claimant has met all the conditions of ~~§ 10-45B-4 or 10-45B-4.1~~ section 4 of this Act, at which time all sums retained shall be paid to claimant.

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Moved by: Knudson
Second by: Gray
Action: Prevailed by voice vote.

MOTION: DO PASS HB 1060 AS AMENDED

Moved by: Gray
Second by: Knudson
Action: Prevailed by roll call vote. (5-4-0-0)

Voting Yes: Knudson, Olson (Russell), Rhoden, Gray, Dempster

Voting No: Abdallah, Hanson (Gary), Heidepriem, Turbak Berry

MOTION: AMEND TITLE OF HB 1060

1060fta

On page 1, line 2, of the House engrossed bill, before "." insert ", to repeal the contractors' excise tax on new or expanded power production facilities, and to make certain transfers to the revolving economic development and initiative fund".

Moved by: Gray
Second by: Knudson
Action: Prevailed by voice vote.

MOTION: ADJOURN

Moved by: Olson (Russell)
Second by: Hanson (Gary)
Action: Prevailed by voice vote.

Cheri Hauschild
Committee Secretary

Thomas A. Dempster, Chair